In the High Court of Punjab and Haryana, Chandigarh.

C.R.No.2652 of 2005

Date of Decision: 08.10.2007

Krishan Lal Sood.

…Petitioner.

Versus

Sharda Sharma

…Respondent.

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Amit Rawal, Advocate
for the petitioner.

Mr.Gurcharan Dass, Advocate
for the respondent.

JUDGMENT

RAJESH BINDAL, J.

This is tenant's revision petition against the order passed by the Appellate Authority under the East Punjab Urban Rent Restriction Act,1949 (for short 'the Act'), whereby the eviction of the petitioner has been ordered on the ground of personal necessary of the respondent-landlord.

As per pleadings of the parties, the tenant is in occupation of the shop in dispute since 1990 with rent payable at the rate of Rs.500/- P.M. The area under shop is 16' x 8'. The respondent-landlord filed a petition for

eviction of the petitioner from the premises in dispute on various grounds including the ground of personal necessity. The other grounds such as non-payment of rent and house tax etc. were found against the landlord, however, claim on the basis of personal necessity was accepted by the Appellate Authority and accordingly eviction was ordered.

I have heard learned counsel for the parties and with their assistance have perused the paper book.

Learned counsel for the petitioner-tenant submitted that the respondent-landlord having failed to comply with the mandatory provisions of Section 13 of the Act while making assertions in the petition filed by her before the Rent Controller, her petition was required to be dismissed as such. He further submitted that even the personal necessity of the respondent-landlord was not proved as it was merely her bald statement that she needed the premises in dispute for use and occupation by her. As she wanted to open a tailoring shop there, when she does not have any experience or qualification in the line. Further it is submitted that the landlord is in occupation of other premises which can very well be used by her for carrying on business in case the need is for that. There is no question of eviction of the petitioner-tenant from the premises in dispute.

On the other hand, learned counsel for the respondent-landlord submitted that respondent-landlord is a widow having three sons who were minor at the time of filing of the petition, however, now they are major. The premises in question is required by her for the use of the family for carrying on business as in the absence of her husband, she is responsible to settle the children. It is further submitted that in the family settlement, it is only this shop on the ground floor which has come into her share and other portion is only on the first floor, which is used for residence. Still further he submits that there is no defect in the pleadings as specific allegations have been made in the

petition and the statement made by her, which fulfills the requirement of law. Accordingly, the prayer was for dismissal of the petition filed by the tenant.

It is not in dispute that the respondent-landlord is a widow having 3 sons who were 14, 12 and 9 years old when her statement was recorded on 18.3.1987 before the Rent Controller meaning thereby all the three have become major now. It has also come on record that the respondent-landlord is not in possession of any other premises which can be used for carrying on business on the ground floor as the rest of the property which had come into her share is on the first floor. In any case, in view of the settled proposition of law, the landlord has freedom to see as to how he is to utilize his property and which of the properties owned by him is best suited for his need. The tenant is not to dictate terms for that. The suitability of any premises for the need of the landlord is to be considered as per the convenience of the landlord and his family members keeping in view their need.

As far as plea raised by learned counsel for the petitioner regarding compliance of provisions of Section 13(3A) of the Act is concerned, in addition to the pleadings, in the statement made by the respondent-landlord, it has specifically been stated that the respondent-landlord is not in occupation of any other premises and has not got vacated any other premises, which complies with the requisite conditions laid down under Section 13 of the Act.

On a perusal of the material on record, it cannot possibly be held that in the case in hand, the claim put up by the respondent-landlord was merely a desire, rather the same was a bonafide need by a widow lady, who had the responsibility to settle her three growing sons, who now have become major. If in a given situation at a particular time, the premises was not required by the landlord, the same can certainly be rented out lest the property is damaged remaining vacant but in case the same is required by the

landlord at a subsequent stage, he should not be non suited by raising hyper-technical pleas once the bonafide need of the landlord is established.

In view of my above discussions, I do not find any merit in the present petition, accordingly, the same is dismissed.

(Rajesh Bindal)
Judge

DATED: 08.10.2007
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